

TOWNSHIP OF MIDDLETOWN

Planning Board
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TECHNICAL MEMORANDUM

DATE: March 14, 2019
BOARD: Planning Board
APPLICATION: Village 35, L.P.
761-853 Route 35
Block 825, Lots 53-57, 58-68, 69.01, 72-79 & 81
Preliminary and Final Major Subdivision; and
Preliminary and Final Major Site Plan

Please note that this office received a revised Environmental Impact Statement, Stormwater Management Report on March 11, 2019. These documents have not been reviewed by this office due to lack of time.

PROJECT DESCRIPTION

The applicant requests preliminary and final major subdivision and major site plan in accordance with the Circus Liquors Redevelopment Plan ("Redevelopment Plan"). As such, this application is not subject to the provisions of any previous site plan or general development plan approval. The Redevelopment Plan establishes an overlay zone for the subject property and surrounding parcels, including Block 825, Lots 53-68, 69.01, 70, 72-79 and Block 870, Lots 1 and 2 ("Redevelopment Plan Area" and/or "Gross Tract Area"). In December 2018, the Planning Board approved the subdivision of the Gross Tract Area into two parcels, known as the Residential Tract and the Commercial Tract.

This application proposes to subdivide the Commercial Tract, known as Block 825, Lot 55.01, into four (4) separate parcels known as Block 825, Lot 55.02; Block 825.02, Lot 1; Block 825.01, Lot 58.02; and Block 825.01, Lot 58.01.

The site plan application proposes seven (7) buildings totaling 341,000 square feet of nonresidential development on the Commercial Tract. Major road improvements to accommodate the commercial development include widening of Route 35; construction of a road to connect Kanes Lane and Kings Highway East on the Residential Tract; realignment of Kings Highway East; relocation of Kanes Lane ROW; redesign of Woodland Drive jug handle; and redesign of Twin Brooks Avenue jug handle. Additional site improvements include demolition of existing structures on-site, tree clearing, 1,676 parking stalls, landscaping and lighting. The public access easement for the proposed inter-connect road is on Block 825, Lot 53.01, known as the Residential Tract in the Redevelopment Plan Area, and shall be constructed

by the developer of either tract in conjunction with the commencement of development within the Gross Tract Area.

Preliminary and Final Major Subdivision

The Preliminary and Final Major Subdivision Plan seeks to subdivide the Commercial Tract, Block 825, Lot 55.01 into four (4) parcels, as indicated below:

- Block 825, Lot 55.02 (Shoppes) totals 45.52 acres (the subdivision and site plan shall be revised to indicate the same proposed lot number for the Commercial Tract);
- Block 825.01, Lot 58.01 (Wells Fargo lot) totals 1.55 acres;
- Block 825.01, Lot 58.02 (Basin 1) totals 1.45 acres; and
- Block 825.02, Lot 1 (Vacant lot) totals .54 acres.

The subdivision plan proposes realignment of Kings Highway East as a future right of way (ROW) to be conveyed partially to the Township of Middletown and to NJDOT. Kanes Lane will be realigned to intersect with Route 35. The applicant is proposing to convey to the Township of Middletown the relocated Kanes Lane ROW. The existing Woodland Drive jug handle is proposed to be redesigned as a 50-foot public access easement starting at a distance of approximately 88 feet from the intersection of the relocated portion of Kanes Lane ROW and Route 35, which will traverse for a distance of approximately 265 feet to the north and then travel to the west thereby connecting Kanes Lane to Route 35.

The subdivision plan indicates several areas of future ROW dedications and thus vacations of existing ROWs on existing Block 825, Lots 53.01 (Residential Tract) and existing Lot 55.01 (Commercial Tract) discussed in further detail in this memorandum.

Preliminary and Final Major Site Plan

The applicant is also seeking Preliminary and Final Major Site Plan approval for the Commercial Tract to construct approximately 341,000 SF of commercial space. The application for the Residential Tract, Block 825, Lot 53.01, is not part of this site plan application.

The applicant is proposing commercial development containing a total area of 341,000 SF. The Redevelopment Plan permits a maximum commercial square footage of 400,000 SF. The proposed commercial development consists of the following building types and square footages:

Table 1: Uses and Building Sizes		
Building	Use	Building SF
1	Retail/Restaurant/Office	5,000
2	Retail/Restaurant/Office	11,000
3	Retail/Restaurant/Office	6,000
4	Theater	28,000
5	Retail	155,000
6	Retail	130,000
7	Retail/Restaurant/Office	6,000
	Total	341,000

As depicted within the submitted site plans, Buildings 1, 2, 3, 4 and 7 are pad sites. Building 5 is an individual building that is to be divided, containing a total area of 155,000 SF, while Building 6 is an individual building containing an area of 130,000 SF. The plans propose appurtenant parking containing 1,676 spaces, driveways, storm water management facilities consisting of basins and wet ponds, lighting, internal roadways and landscaping. The plans propose on-site signage consisting of freestanding and monumental signs along with wayfinding signs throughout the proposed development.

The Commercial Tract contains existing structures on site, which will be demolished to contain the proposed development. There is an existing historic clown sign, which will be protected and relocated within the site. The plans propose substantial road improvements and noted as follows:

1. The plans propose realignment of Kings Highway East at the intersection of Route 35 and opposite Twin Brooks Avenue to traverse in an easterly direction to connect to the existing Kings Highway East;
2. The plans propose relocation of Kanes Lane at its intersection with Route 35 to meet the highway at a 90 degree angle;
3. The plans propose reconstructing the Woodland Drive jug handle system to meet with the relocated portion of Kanes Lane and provide connection to the proposed shopping center and Route 35;
4. The plans propose off-site roadway improvements at the Twin Brooks Avenue jug handle;
5. The plans propose off-site improvements on Block 825, Lot 58, which is proposed as Block 825.01, Lot 58.01; and
6. Provision of two (2) bus shelters along Route 35.

PROJECT HISTORY

This site has been the subject of numerous applications to the Township Planning and Zoning Boards, as well as several rounds of litigation in the past two decades. Over time, the scale of the proposed development has diminished. A proposal in 2003 featured over one (1) million square feet of commercial gross floor area, a three level parking structure comprising 475,000 SF and a substantial residential component. A proposal in 2009 featured over 600,000 SF of commercial space and 500 residential units.

The current zoning for the property was adopted in 2009 following a recommendation in the 2009 Master Plan Re-Examination Report. The stated goal for development on this site is to provide “measurable benefit to the public by providing significant employment opportunities; by supporting the local economy; by providing public spaces for active and passive recreation; and by providing a variety of housing types with a range of affordability.”

A General Development Plan (GDP) Approval was granted by the Planning Board on July 1, 2015 affording the applicant protection for a period of 20 years to develop the site with up to 400,000 SF of commercial space, and up to 350 residential units, of which 70 are to be affordable.

In February 2016, the applicant submitted an application for Preliminary and Final Major Subdivision for the entire GDP tract, and an application for Preliminary and Final Major Site plan for the commercial portion of the tract. On March 9, 2016, the application was deemed complete pursuant to NJSA 40:55D-

10.3 for planning and engineering review. On June 1, 2016, the applicant appeared in front of the Planning Board for their first scheduled public hearing. The public hearings have continued at the Planning Board on June 15, 2016, September 7, 2016, February 15, 2017, July 12, 2017, and September 13, 2017.

At the time of the first Planning Board hearing in June 2016, this office had received an application for the residential portion as well. At the first public hearing, the Planning Board established a procedure requiring a consolidated public hearing of both the residential and nonresidential applications. The application for the residential portion was deemed complete pursuant to NJSA 40:55D-10.3 on October 6, 2016. Thereafter, the application for the residential portion was withdrawn on December 19, 2016.

On September 18, 2017, the Township of Middletown Township Committee adopted Resolution No. 17-239 directing the Township of Middletown Planning Board to undertake a preliminary investigation pursuant to the Local Redevelopment and Housing Law (LRHL) to determine whether certain property in the Township, including the subject property, constitutes an “area in need of redevelopment” without condemnation under the criteria set forth in N.J.S.A. 40A:12A.

In a meeting held on December 6, 2017, the Planning Board held a public hearing on the preliminary study of the Area of Investigation prepared by DMR Architects. The Planning Board made a formal recommendation to the Township Committee that Block 825, Lots 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69.01, 70, 72, 73, 74, 75, 76, 77, 78, 79 and 81 and Block 870, Lots 1 and 2 and Block 871, Lot 7.02 qualified as an area in need of redevelopment without condemnation.. On December 18, 2017, the Township Committee adopted Resolution No. 17-294 consistent with the Planning Board findings.

On September 17, 2018 the Township Committee, by Ordinance 18-3232, adopted a Redevelopment Plan entitled “Circus Liquors Redevelopment Plan” for the Delineated Area of Block 825, Lots 53-68, 69.01, 70, 72-79 and 81 and Block 870, Lots 1 and 2, including the subject property (i.e. redevelopment plan area). The Redevelopment Plan constitutes an overlay zone to be applied solely to the Redevelopment Plan Area properties. As an overlay zone, the Redevelopment Plan does not supersede the underlying PD Zone.

On December 5, 2018, Village 35 L.P. applied for, and was granted Preliminary and Final Minor Subdivision approval of the redevelopment plan area, containing Block 825, Lots 53-57, 59-68, 69.01, 72-79 & 8, into two lots, known as Block 825, Lots 53.01 and 55.01. Block 825, Lot 53.01 would contain the residential portion while Block 825, Lot 55.01 would contain the commercial portion.

This application is for preliminary and final subdivision and site plan of the Commercial Tract, and continues to be in accordance with the Circus Liquors Redevelopment Plan.

PROPERTY DESCRIPTION

The overall tract is slightly more than 118 acres. It is situated with frontage along the northbound side of Highway 35 between Kings Highway East and Kaness Lane. There is existing commercial development on the site in the northwest corner including a liquor store and post office. The rest of the site is mostly undeveloped with the exception of some out buildings. Portions of the property are cleared and have been used for agricultural purposes. There are wetlands present on the property, as well as several steeply sloped and wooded areas. A tributary of McClees Creek, a Category One waterway, is located within wetlands at the rear of the site on Block 825 Lot 53.02. The nonresidential portion of the subdivided tract contains an area of approximately 45.515 acres.

ZONING AND SURROUNDING LAND USE

The property is located in the Planned Development (PD) Zone with a Redevelopment Plan overlay zone. The Redevelopment Plan overlay zone does not supersede the underlying zoning. Where zoning requirements or design standards are not addressed in the Redevelopment Plan, applicable standards set forth in the Township of Middletown Planning and Development Regulations shall remain in effect.

The property is bordered to the west by Highway 35 and several commercial uses, to the south by Kanes Lane and a mix of commercial and residential uses, to the east by single family homes, and to the north by Kings Highway East. Single and multi-family residential development and several offices are located opposite the property on the north side of Kings Highway East. The adjacent zones are the multi-family residential RGA and RTH zones, the single-family R-22 zone, the B-2 and B-3 commercial zones, and the M-1 manufacturing zone.

CIRCUS LIQUORS REDEVELOPMENT PLAN COMPLIANCE REVIEW

The Commercial Tract is known as as Block 825, Lots 55.01. The applicant is proposing to subdivide the Commercial Tract into four (4) separate parcels; identified as Block 825, Lots 55.02; 825.01, Lot 58.02 and 58.01 and Block 825.02, Lot 1. Block 825.02, Lot 1 will be created as a result of the realignment of Kanes Lane.

1. Redevelopment Plan Area: Sub-Districts

The Redevelopment Plan establishes three (3) sub-districts within the Commercial Tract including “North Retail,” “Core” and “Parcel A.” The table below indicates the proposed lots and compliance with the location of those sub-districts:

Proposed Block	Proposed Lot	Sub-district	Redevelopment Plan Compliance?
825	55.02	Core	Yes
825.02	1	Parcel A	Yes
825.01	58.02	North Retail	Yes
825.01	58.01	North Retail	Yes

2. General Requirements for the Gross Tract Area: 1. Proposed Uses

The applicant is proposing commercial development containing a total area of 341,000 SF. The maximum square footage permitted by the Redevelopment Plan is 400,000 SF. The proposed commercial development consists of the following building types and square footages:

Table 2: Uses and Building Sizes		
Building	Use	Building SF
1	Retail/Restaurant/Office	5,000
2	Retail/Restaurant/Office	11,000
3	Retail/Restaurant/Office	6,000
4	Theater	28,000
5	Retail	155,000
6	Retail	130,000
7	Retail/Restaurant/Office	6,000
	Total	341,000

In accordance with the general requirements for the Gross Tract Area, accessory drive-thru uses are permitted in conjunction with a pharmacy, bank or supermarket. The applicant shall provide in testimony whether accessory drive-thru uses are proposed, and if so, for which buildings, and plans shall be revised indicating such.

3. General Requirements for the Gross Tract Area: 2. Stormwater Management Facilities

In compliance with the general requirements for the Gross Tract Area, the applicant proposes a stormwater basin, known as stormwater basin 7, on the Residential Tract to accommodate the drainage resulting from the proposed development on the Commercial Tract.

From the site plans, it appears that the applicant is proposing to construct part of the basin serving the commercial tract. Testimony should be provided regarding the phasing of the construction of this stormwater management basin in its entirety to serve both the developments.

4. General Requirements for the Gross Tract Area: 3. Roadway Connectivity

In compliance with the general requirements for the Gross Tract Area, the applicant proposes a public access easement (126,831 SF) to contain a roadway and other improvements between Kaness Lane and Kings Highway East, known as the “Interconnect Road” on the Residential Tract. The Interconnect Road shall be constructed by the developer of either tract in conjunction with the commencement of development within the Gross Tract Area. Testimony shall be provided as to how this will be implemented.

The Redevelopment Plan further states in paragraph d. that “no certificate of occupancy may be issued for any structures on either the residential tract or the commercial tract until a performance guarantee securing the construction of said road and any related drainage facilities is posted.” This shall be a condition of approval.

5. Open Space Requirements for the Gross Tract Area:

The Redevelopment Plan requires a 30% set aside of “open space” and/or “open space, unoccupied” as defined in 540-203 within the Gross Tract Area. This area shall be calculated prior to the dedication or conveyance of any open space areas to the Township of Middletown, transportation authorities, or neighboring properties. The applicant shall provide this information for the Gross Tract Area for review.

6. Open Space Requirements for the Commercial Tract:

- a. The Redevelopment Plan requires a minimum of 25% of “open space” and/or “open space, unoccupied.” The applicant proposes 17.323 acres or 33.4% of open space within the Commercial Tract. This includes areas in the town right of way (0.381 acres), DOT right of way basin 4 (0.7-8 acres) and 1.368 acres in the north retail tract (Stormwater basin 1). Excluding that, the commercial tract contains a total of 14.853 acres. This is approximately 32% of the total tract of 45.52 acres; therefore, the application appears to be in compliance with the redevelopment plan.
- b. The limitations, as per Section 540-203, that it may contain no more than 50% of wetlands, open bodies of water or watercourses, sloped areas of 25% or greater, shall be made a Condition of Approval. Please note that contrary to Section 540-203, the Redevelopment Plan permits inclusion of drainage, stormwater and/or recharge basins as well as hard and soft-surface walking trails in buffer areas in the opens space calculations. Calculations must be provided to show compliance with this requirement.
- c. The applicant shall address the existing condition of the “open space” wetlands located to the rear of Retail 5, specifically related to the need for removal of dead or diseased trees, and/or selective thinning to encourage desired growth.
- d. The applicant shall discuss maintenance and responsibility of proposed “open space” to be conveyed to NJDOT.
- e. All lands dedicated as “open space” shall contain appropriate covenants and deed restrictions approved by the appropriate agency, and in conformance with Section 540-628G of the ordinance.

7. North Retail Sub-District

Proposed Block 825.01 Lots 58.01 and 58.02 are within the North Retail District. Block 825.01, Lot 58.01 will contain the existing Wells Fargo bank located at the corner of Route 35 and Kings Highway East. Block 825.01, Lot 58.02 will contain a stormwater basin, known as stormwater basin 1. Although the proposed parking for Lot 58.01 (Wells Fargo) is located closer than 25’ from the gross tract area boundary and/or the public right-of-way (Route 35), this is an existing condition and is conforming under Section 4.b of the Redevelopment Plan.

8. Core Sub-District

- a. Use and Bulk Requirements: Proposed Block 825, Lot 55.02 is within the Core District, and will contain seven buildings totaling 341,000 SF of commercial development.
- b. Parking and circulation: Section 4 requires a minimum parking setback from a principal building is 12’ and the zoning table on Sheet CS101-0101 indicates a parking setback of 6’. This is not compliant and would require relief from the Redevelopment Plan in accordance with 6.0 General Provisions.4 Deviation Request The applicant shall revise the plans to be compliant or justify the reasons for seeking variance relief.
- c. Short term parking and electric vehicle (ev) charging stalls shall be considered as parking spaces for compliance purposes. Four (4) ev stalls are proposed. The plans shall identify which stalls will be designated as short-term.
- d. Customer loading zones shall be identified on the plans to review for compliance with the Core District requirements for landscaping (Core District: Other Requirements 2.).

- e. Zero-reveal curbs shall be permitted at the principal entrance to commercial buildings if bollards are provided at intervals of no less than one per every 12 feet. Testimony should be provided if any zero-reveal curbs are being proposed. This office defers to the Board Engineer for use of zero reveal curbs and conformance with the Redevelopment Plan.

f. Landscaping and Design Standards:

- i. All parking areas/lanes shall be terminated with a landscape island that includes a minimum landscape area of 300 sq. ft. except in areas where access routes from ADA parking spaces are required. Testimony should be provided regarding compliance. 5.b requires each landscape island shall be planted with a minimum of two 3.5" caliper deciduous trees. The Landscape Plan proposes shade trees with a minimum 3" caliper, and some landscape islands have only one tree. The Landscape Plan shall be revised in accordance with this section or seek relief to allow deviation from the Redevelopment Plan in accordance with 6.0 General Provisions.4 Deviation Request.
- ii. 5.d requires 6' wide planting strip between the building and adjacent perimeter curbing except where it would conflict with loading spaces, building entrances and pedestrian access routes. Planting strips shall be widened and/or added for Retail 1 and 7 or testimony for relief to allow deviation from the Redevelopment Plan in accordance with 6.0 General Provisions.4 Deviation Request shall be provided.
- iii. 5.e requires a five foot minimum width landscaping area along three sides of the fence or wall enclosing the refuse storage area. Additionally, the access gate shall be decorative. Testimony should be provided regarding the type of gate proposed. The chain link with pvc slats detail provided for the dumpster enclosure is specifically prohibited. The proposed enclosure for the dumpsters shall be made with the same building material as the primary structure or relief shall be required in accordance with 6.0 General Provisions.4 Deviation Request of the Redevelopment Plan.
- iv. 5.f requires landscaping "in and around" stormwater basins consisting of deciduous and evergreen shrubs; evergreen trees; and not less than 20 shade trees. Additional shade trees shall be planted around Stormwater Basins 4, 5 and 7 to meet the minimum requirement of 20 shade trees per basin or relief shall be requested in accordance with 6.0 General Provisions.4 Deviation Request of the Redevelopment Plan.
- v. 5g establishes certain design standards for emergency generators. Retail 6 proposes an emergency generator to the rear of the building. The applicant shall indicate in testimony that the proposed emergency generator is located within a sound attenuating enclosure. Plans shall be revised and detail provided indicating such enclosure.

9. Parcel A Sub-District:

Proposed Block 825.02, Lot 1, containing a total area of 0.54 acres, is within the Parcel A sub-district. In conformance with the Redevelopment Plan, the lot area is a result of the realignment of Kanes Lane and shall be conveyed to Block 871, Lot 3 following the Township of Middletown's vacation of the former Kanes Lane right-of-way. Block 871, Lot 3 is located outside of the redevelopment plan area. In accordance with the Redevelopment Plan, an access drive to Block 871, Lot 3 is proposed on Parcel A. Any improvements proposed for Parcel A shall not impact the status of Block 871, Lot 3 for zoning compliance purposes.

10. Requirements affecting out parcels including Block 825, Lot 70, Block 870, Lots 1 and 2:

- a. Block 825, Lot 70 (Verizon Wireless) –Landscaping is proposed on Block 825, Lot 70 along the southerly boundary line.
- b. Block 870, Lot 1 (Community Appliance); and Lot 2 (Walt’s Sleep Shop) – In conformance with the Redevelopment Plan, an access drive is proposed connecting Block 870, Lot 1 to the Commercial Tract via the Woodland Ave. jug handle public access easement.

11. Architectural and Design Standards

- a. Purpose: In accordance with the Redevelopment Plan, the applicant shall provide in testimony how the proposed design of the Commercial Tract furthers the purpose of the Redevelopment Plan Architectural and Design Standards, specifically how is the design “pedestrian oriented,” “walkable,” “bikeable” and “designed in the spirit of sustainable design.”
- b. Architectural Character: Testimony shall be provided describing the proposed Theater façade and its consistency with the architectural character envisioned by the Redevelopment Plan.
- c. Theme: Testimony shall be provided how the proposed building materials promote a “recognizable village style character” throughout the Commercial Tract.
- d. Pedestrian Circulation:
 - i. Sidewalk shall be incorporated to connect the proposed sidewalk to Retail 1 consistent with the redevelopment plan requirements to provide a pedestrian walkway from the parking area to primary building entrance.
 - ii. An additional crosswalk shall be provided connecting the 10’ sidewalk along the northern side of Retail 5 to Theater 4.
 - iii. Clearly defined pedestrian pathways between the parking stalls shall be provided for the stacks of handicap parking stalls located in front of Retail 5 and 6 so that the handicap person does not have to use the drive aisle to access the crosswalk. Specifically, the handicap stalls in front of Retail 5 and 6. In front of Retail 6, crosswalks shall be added, potentially cutting through the landscape islands, to provide accessible pathway links from the handicap stalls to the building entrance. Additional pedestrian connections must be provided to link the parking lots to the northwest of Retail 4 (theater), the large parking expanse to the south of Retail 5 and northwest of Retail 6.
 - iv. Where there are gaps in sidewalk due to outparcels, specifically along the southern boundary of Stormwater Basin 3, sidewalk should wrap around the basin and connect to the decorative walk in front of Retail 5. Additionally, along Kanes Lane, a crosswalk shall be incorporated to connect sidewalks and provide a safe pedestrian route.
 - v. Retail 7 shall be designed with a loading zone that does not conflict with site circulation.
- e. Cyclist Circulation: Bike racks are proposed at Retail 5 and 6 only (2/building). Consistent with the redevelopment plan and to ensure bicyclists have a safe reliable place to park, bike racks should be proposed at the very minimum one at each building.
- f. Street Furniture and Amenities: Benches should be provided near drop off areas and entry ways, and identified on the site plan.
- g. Form and Scale: Pages 21-23 set forth the standards for building articulation.

1. The redevelopment plan identifies primary facades which are considered to be front facades facing inward to the shopping center; secondary facades relate to the sides of the building which may be clearly visible; and the rear of the building as the complete opposite side of the front and or the primary facing side of the building. Based upon this we have the following comments:
 - a. For Retail 5, please provide the elevation from the eastern side and southeastern side of the portion of the building whose southwestern primary façade is identified as “F” in the architectural plans. This should be in compliance with Section on Page 23, “rears of buildings shall be designed to minimize the visual impact of long expanses of wall at a single height or in one plane...on the backs of the building in lieu of changing material consider changes in color.”
 - b. Section 6 sets forth the various techniques to be implemented to provide human scale interest and variety. One of the techniques is varying building form such as recessed or projecting bays. This is emphasized in Section 5 as well, where building mass should be broken into distinct components with architectural treatments. The primary façade of Retail 5, based upon the submitted floor plan, appears to be a long continuous façade and does not include recesses or projecting bays. Testimony should be provided regarding compliance with this requirement of the redevelopment plan.
- h. Elevations, Entries and Roof Form: Pages 23-24 set forth the standards for elevations, entries and roof form. Testimony should be provided regarding compliance with the same:
 1. Retail uses are encouraged to have windows, door display windows or arcades that make up at least 25% to 40% of the building facades that abut the primary pedestrian sidewalks, streets, or internal roadway systems.
 2. Fenestration and Articulation:
 - a. Vertical architectural features such as columns, piers and windows are required at a minimum of every 80 feet.
- i. Materials: Pages 25-26 set forth the materials required.
 - i. Testimony should be provided regarding the compliance with this requirement.
 - ii. Material samples must be provided for the Board’s review.
- j. Sustainable Site and Building Design: The Redevelopment Plan requires the following plan components – Testimony shall be provided to review compliance or relief in accordance with 6.0 General Provisions.4 Deviation Request of the Redevelopment Plan shall be sought:
 - i. Grass species and drought tolerant plants proposed?
 - ii. Rain garden proposed?
 - iii. Full cut off lighting in primary parking areas?
 - iv. Energy efficient HVAC units proposed?
 - v. LED lighting proposed for site signage and parking lot lighting?
 - vi. Provide one (1) Electric Car Charging Station per 300 spaces?

The applicant shall provide in testimony whether sustainable best practices listed as encouraged in Section 2, Sustainable Site and Building Design of the Redevelopment Plan will be used.

- k. Pad Site Buildings: Typical franchise façade architecture is generally discouraged throughout the Commercial Tract. At the time when a tenant occupies a pad site building, the building design shall be reviewed in compliance with the redevelopment plan standards for pad site building design.
 - i. Architectural floor plans and elevations for the pad sites must be provided. These must comply with the architectural character of the rest of the shopping center. This shall be a condition of approval.
 - ii. The proposed loading areas for the pad site buildings shall be screened with a minimum 4' fence or wall with building materials consistent with the primary building material. The applicant shall comply with this standards or justify the reasons to seek relief in accordance with 6.0 General Provisions.4 Deviation Request of the Redevelopment Plan.
- l. Signage for Commercial Tract: For the Board's review, the table below compares the proposed sign package to the Redevelopment Plan Standards.

Sign Type	Redevelopment Plan Standards/PD Zone	Proposed by Applicant	Code Compliance
Knee Wall Monument (at base of Clock Tower)			
No. of Signs	1	1	Complies
Sign Height (feet)	3'8	3'8"	Complies
Maximum Sign Face (Square Feet)	77 sf	77 sf	Complies
Freestanding Pylon Sign			
No. of Signs	2	2	Complies
Sign Height (feet)	20'	20'	Complies
Maximum Sign Face (Square Feet)	250 sf	241 sf	Complies
Monument Sign (Kanes Lane)			
No. of Signs	1 on the third and any additional streets	1	Complies
Sign Height (feet)	8'	8'	Complies
Maximum Sign Face (Square Feet)	100 sf	78 sf	Complies
Monument Sign (Community Appliance/Walt's Sleep Shop)			
No. of Signs	2	2	The applicant shall revise the zoning table (Sheet 3 of 9 of
Sign Height (feet)	6'	Plan discrepancy	

			the Building Site Signage Package)
Maximum Sign Face (Square Feet)	60 sf	17 sf	Complies
Private Internal Road Setback (feet)	10'	Applicant shall provide	TBD
Façade Signs-Multiple Tenant Retail Buildings or Single Tenant Retail Building <125,000 GFA			
No. of Signs	1/façade + 1/street frontage	1/façade + 1/street frontage	Complies
Maximum Sign Face	10% of the principal façade area	10% of the principal façade area	Complies
Façade Signs-Single Tenant Retail Buildings >125,000 GFA			
No. of Signs	Up to 4/facades >400' with public entrances; Up to 2/facades <400' with public entrances; 1/façade with no public entrance	Up to 4/facades >400' with public entrances; Up to 2/facades <400' with public entrances; 1/façade with no public entrance	Complies
Maximum Sign Face	10% of the principal façade area	10% of the principal façade area	Complies
Wayfinding Signs			
No. of Signs	No maximum	8	Complies
Sign Height (feet)	12	12	Complies
Maximum Sign Face (Square Feet)	10	10	Complies
Calico Clown Sign is proposed to remain in existing location - Complies			

The "Calico the Food Circus Clown" Sign received a Certificate of Eligibility (COE) from the New Jersey State Historic Preservation Office on July 17, 2015. The applicant proposes to maintain the Calico Sign in its existing location. Final approval or letter of no jurisdiction will be required from NJSHPO.

12. Landscape Requirements for Gross Tract Area

- a. Landscape Requirements for Gross Tract Area.2 requires no more than 65% of slopes greater than 10% may be used for construction purposes. Additionally, the Redevelopment plan stipulates that man-made slopes greater than 15% shall not be considered steep slopes and shall not be subject to any maximum disturbance requirements. The Table on Sheet CS8060101 shows about 90% is proposed to be disturbed and majority of which appears to be to the rear, undeveloped portion of the property. We are not clear what percentage is manmade and what is naturally occurring. Testimony and calculations should be provided or in the alternative relief is required in accordance with 6.0 General Provisions.4 Deviation Request of the Redevelopment Plan. Additionally, as per

the redevelopment plan 65% is the maximum permitted while the table on Sheet CS8060101 indicates a maximum of 30%; the plans shall be revised to address this discrepancy.

- b. Landscape Requirements for Gross Tract Area.3 requires shade trees to be planted on both sides of the Inter-connect Road at intervals no more than 30' apart. Shade trees are proposed on only one side of the Inter-connect Road, and at some locations, more than 30' apart - relief is required in accordance with 6.0 General Provisions.4 Deviation Request of the Redevelopment Plan. Additionally, a phasing plan, if applicable, shall be submitted for the shade tree installation along the Inter-connect Road.
 - c. Landscape Requirements for Gross Tract Area.5 requires a 6' landscape area along both sides of the Interconnect Road. Plans shall be revised or relief requested in accordance with 6.0 General Provisions.4 Deviation Request of the Redevelopment Plan for provision of a landscape area along the northern boundary of the Interconnect Road.
 - d. The Landscape Details shall be revised consistent with tree base requirements in Landscape Requirements for Gross Tract Area.7.
 - e. As per Landscape Requirements for Gross Tract Area.8 Landscape Plan shall be revised to indicate all deciduous trees shall be planted at a minimum 4" caliper.
13. Kings Highway East Scenic and Historic Road Requirements – The Landscape Plan shall include a compliance table for proposed landscaping for the Kings Highway East Scenic and Historic Corridor, between the Twin Brooks Extension and the Interconnect Road to ensure compliance with the landscape standards. Specifically Kings Highway East Scenic and Historic Road Requirements.1 requires at least 30 shade trees, 30 evergreen trees and 50 evergreen shrubs along the corridor. If the applicant intends to use existing vegetation to fulfill this requirement, the table shall indicate as such with existing tree condition noted.
14. Lighting
- a. The applicant shall indicate in testimony that the minimum lighting location at any level within a parking area is in accordance with IESNA recommendations for parking lot lighting.
 - b. All lighting within the commercial tract shall consist of full cutoff LED fixtures that are Dark Sky Compliant. The applicant shall indicate in testimony conformance with this requirement for all proposed light fixture types or seek relief in accordance with 6.0 General Provisions.4 Deviation Request of the Redevelopment Plan, specifically for Light Fixture B.
 - c. Pedestrian lights not greater than 18' in height shall be placed along the Interconnect Road. Relief is required for the light fixture along the Interconnect Road as the proposed fixture is 21' in height. Plans should be revised to be in compliance or in the alternative, relief is required to allow deviation from the Redevelopment Plan in accordance with 6.0 General Provisions.4 Deviation Request.
15. ACTOPMS Related to Stormwater Facilities and Roadway Improvements Maintenance Agreements shall be executed for maintenance of stormwater facilities. The following ROW Dedications and Public Access Easements are proposed:
- a. Route 35:
 - i. Portion of existing Block 825, Lot 55.01 containing an area of 91,299 square feet along Route 35 to be conveyed to NJDOT for future ROW subject to NJDOT property and parcel dedication

process. The applicant shall comply with ACTOPMS Related to Stormwater Facilities and Roadway Improvements of the Redevelopment Plan and convey the property to NJDOT as a Condition of Approval.

- b. Kings Highway East:
 - i. Portion of existing Block 825, Lot 55.01 containing an area of 58,495 square feet along Kings Highway East to be conveyed to Middletown Township for future ROW subject to Township approval. This also includes Stormwater Basin 1B. The applicant shall comply with ACTOPMS Related to Stormwater Facilities and Roadway Improvements of the Redevelopment Plan and convey the property to the Township of Middletown as a Condition of Approval.
- c. Kanes Lane:
 - i. Proposed Kanes Lane ROW containing an area of 35,854 square feet to be conveyed to Middletown Township, subject to the Township approval. The applicant shall comply with ACTOPMS Related to Stormwater Facilities and Roadway Improvements of the Redevelopment Plan and convey the property to the Township of Middletown as a Condition of Approval.
 - ii. Portion of existing Block 825, Lot 55.01 containing an area of 3,729 SF within the existing Kanes Lane ROW to be conveyed to Middletown Township, subject to Township approval. The applicant shall comply with ACTOPMS Related to Stormwater Facilities and Roadway Improvements of the Redevelopment Plan and convey the property to the Township of Middletown as a Condition of Approval.
 - iii. Portion of existing Block 825, Lot 53.01 containing an area of 9,740 SF within the existing Kanes Lane ROW to be conveyed to Middletown Township, subject to Township approval. The applicant shall comply with ACTOPMS Related to Stormwater Facilities and Roadway Improvements of the Redevelopment Plan and convey the property to the Township of Middletown as a Condition of Approval.
- d. Woodland Drive (Woodland Jug Handle):
 - i. An area of 30,552 square feet is dedicated as a public access easement to replace the existing Woodland Drive jug handle.
 - ii. An area of 2,693 square feet is dedicated as an access easement from the applicant's lot to the existing Woodland Drive ROW. This will be used to access Block 870, Lot 1.
 - iii. Public Access Easements for Sidewalk:
 - 1. An area of 126,389 square feet is dedicated as a public access easement for the inter-connect road on existing Block 825, Lot 53.01.
 - 2. An area of 800 square feet is dedicated as a public access easement for sidewalk adjacent to the intersection of the inter-connect road and Kings Highway East on existing Block 825, Lot 53.01 (Residential Tract).
 - 3. An area of 235 square feet is dedicated as a public access easement for sidewalk adjacent to the intersection of the inter-connect road and Kings Highway East on existing Block 825, Lot 55.01 (Commercial Tract).
 - 4. An area of 900 square feet is dedicated as a public access easement for sidewalk adjacent to the intersection of the inter-connect road and Kanes Lane on existing Block 825, Lot 55.01 (Commercial Tract).

ENVIRONMENTAL

1. Disturbance of Wetlands and Wetland Transition Areas: A letter of interpretation (LOI) was issued by DEP in 2000, re-issued in 2005, was valid until June 30, 2016 under the Permit Extension Act, and extended until June 30, 2021. The applicant proposes several areas of disturbance within wetlands and the wetland transition areas. Up to one acre of isolated wetlands is proposed to be filled. Our office was provided with the application made to the NJDEP for the following:

- Freshwater Wetlands General Permit 6
- Freshwater Wetlands Transition Area Averaging Plan Waiver.

The applicant received approval for a Freshwater Wetlands General Permit No 6 and Freshwater Wetlands Transition Area Averaging Plan Waiver from the New Jersey Department of Environmental Protection on July 1, 2016. At that time, one of the appendices to the application for the Freshwater Wetlands General Permit No 6 and Freshwater Wetlands Transition Area Averaging Plan Waiver to the New Jersey Department of Environmental Protection (NJDEP), was an Archaeological Survey, prepared in accordance with the requirements of the Freshwater Wetlands Protection Act Rules (N.J.A.C. 7:7A). This was part of the Phase IA historical and archaeological survey undertaken pursuant to N.J.A.C. 7:7A-12.2(I)2. The report noted that the property holds moderate potential for yielding evidence of Native American occupation and further recommended conducting a Phase IB Archaeological Survey if the NJHPO concurred with their recommendation.

Our office in 2016 was in receipt of the Phase IB Survey, which in the evaluation and recommendations section noted that 853 Highway 35 (Calico Clown Sign and Food Circus Supermarket) and 33 Kanes Lane satisfy the criteria to be recommended eligible for the New Jersey and National Registers of Historic Places. Additionally, regarding the Native American occupation, the report concludes that “some limited prehistoric activities took place within the property, no true prehistoric ‘site’ (usually denoted by a concentration of artifacts that would accumulate even after a short term occupation) has been identified...on this basis, no further prehistoric archaeological investigation is considered necessary in connection with the proposed development project.” Testimony and documentation should be provided regarding SHPO’s opinion / concurrence with the Survey’s findings.

TRAFFIC

1. Inter-Connect Road: A new north-south connector road (inter-connect road) will be constructed to the rear of Block 825, Lot 55.01, entirely on Block 825, Lot 53.01, within a 50’ wide Public Access Easement, connecting Kings Highway East and Kanes Lane.

The 2014 Master Plan Reexamination Report states that this road should be developed using complete streets and traffic calming principles to ensure accessibility and safe circulation of pedestrians and cyclists as well as automobiles. Testimony should be provided.

2. Shopping center ingress and egress is proposed via several access points that will require NJDOT review and approval including:
 - a. One (1) direct right turn-in/-out road from Route 35 northbound where Kings Highway East is proposed to be realigned;
 - b. Three (3) points of access from Route 35 northbound (ingress and egress);

- c. Two (2) points of access from Route 35 northbound (ingress only)
- d. One (1) point of access from Route 35 northbound (egress only)
- e. Kings Highway East via the inter-connect road;
- f. Three (3) points of access via inter-connect road;
- g. Kanes Lane via the inter-connect road; and
- h. One (1) point of access via Kanes Lane.

3. Traffic Impact Study:

We defer to the Planning Board's Traffic Consultant for comments.

ADDITIONAL PLANNING COMMENTS

- 1. Redevelopers agreement: This shall be a condition of approval.
- 2. Phasing Plan - The proposed site plans, CS800 0101, Sheet 57 of 62, propose five phases for the development of the site including:
 - a. Phase 1A – Route 35 widening and improvements, Kings Highway East realignment, stormwater basins 1 and 4, Twin Brooks Avenue and jug handle improvements, parking lot improvements on Lot 58.01, and improvements to Woodland Avenue for sidewalk on the southbound side of Route 35.
 - b. Phase 1B – Inter-Connect Road, stormwater basin 7.
 - c. Phase 1C – Redesign of Woodland Drive ROW, relocation of a portion of Kanes Lane ROW, and stormwater basin 5.
 - d. Phase 1D – Stormwater basin 6
 - e. Phase 2 – Commercial site development for Buildings 1, 2, 3, 4, 5, 6, and 7.
- 3. On-Site Circulation
 - a. The applicant shall address the proposed two bus shelters and whether a bus turnout lane was considered in discussions with NJDOT and NJ Transit. A detail for the bus stop shall be provided. Upon NJDOT approval, final design and placement of the bus shelter shall be provided as a Condition of Approval.
 - b. Testimony should be provided whether the applicant has considered utilizing speed bumps for the main road in front of Retail 5 as a traffic calming measure? Testimony should be provided regarding any alternative traffic calming measures proposed.
 - c. Sheet CP 102 0101 (Sheet 16 of 62) shows the location of the “Stop” sign on the interconnect road aligning with the exit point from the shopping center on to the road, proximate to Retail 5. We have concerns regarding the potential conflict between trucks exiting the site and vehicles at the stop sign.
 - d. In addition to providing wayfinding signage, truck routing/delivery signs are proposed throughout the site. The applicant shall provide in testimony the methodology of the distribution and orientation of the signs. The applicant shall provide testimony to the planning comments below to improve truck on-site circulation:
 - i. The applicant shall submit a circulation plan with truck turning templates for Theater 4. The applicant shall demonstrate how a truck shall leave the site from the proposed loading

- zone to the South of Theater 4. Signage shall be added in accordance with the circulation plan.
- ii. Additional signage shall be provided to direct trucks out of the site specifically; from the rear of Retail 5 to the Inter-connect Road, and through the site to State Highway Route 35 Northbound.
 - iii. The applicant shall add an additional sign #18 to the Southwest corner of Stormwater Basin 2 to allow for truck circulation onto State Highway Route 35 North.
 - iv. The applicant shall provide testimony regarding the purpose of sign #18 at the southern corner of Retail 6. The sign directs traffic eastward down Kanes Lane without additional signage to route the truck back to State Highway Route 35. The applicant shall consider replacing the sign with a more appropriate sign or adding additional signage to clarify the routing offsite.

4. Parking and Loading

- a. A total of 341,000 square feet of commercial space is proposed. The table below indicates the required and proposed off street parking requirement:

Use	Standard	Required	Proposed
Shopping Center	4.5 stalls / 1,000 sf	341,000 sf = 1,534.5 stalls	1,676 stalls, complies

- b. The applicant shall address employee parking and whether designated areas will be used. If so, appropriate signage shall be posted.

5. Landscaping

- a. The Landscape plan shall be revised to indicate conformance with Section 540-622.E.10.a of the ordinance, where one evergreen is required for each five (5') feet of the foundation wall or fence including side surfaces.
- b. Section 540-645.A.1 of the ordinance, requires street trees to be located between the sidewalk and ROW line. The applicant shall seek a waiver for locating street trees on the opposite side of the sidewalk. Our office supports this waiver request as placing street trees in the required location becomes a maintenance issue for our Department of Public Works.
- c. The plan proposes 158 Boxwood plants. There has been an outbreak of Boxwood Blight. The applicant should consider an alternative to this species.
- d. The application does not have a significant amount of plantings around any of the proposed basins or in front of the proposed fencing along Route 35. The applicant should consider a significant increase of the proposed plantings for these areas.
- e. The plans do not identify mulch beds, seed or sodded areas. The applicant should provide information pertaining to the locations of these areas.

- f. There is a lack of planting at the Twin Brooks entrance into the commercial area. This includes a lack of shrub and/or planting beds. The application should consider addressing this area with the intensity of plantings along the Route 35 entrance.
- g. The parking lot adjacent to the proposed theater includes Zelkova Serrata as the tree. Considering an alternative species for this area is recommended.
- h. The plan indicates a two-year maintenance requirement for the contractor. Additional notes indicating the Township should review the condition of the plant materials by a certified landscape architect and plants that are dead or dying should be required to be replaced.
- i. The applicant should testify with regard to providing irrigation along the more intense areas within the development particularly within the parking areas and main entrances.
- j. Additional street trees should be planted along the internal loop road that runs parallel to Route 35.
- k. Landscape planting plans should correspond to a proposed phasing plan. All streetscape should be implemented as part of the first phase. The applicant should provide testimony pertaining to the proposed phasing.
- l. The proposed hardscape in the median area located in front of Building 5 between the two parking areas is significant. Consideration should be taken to reduce the hardscape area and increase the landscape area within this median.

We defer to the Planning Board engineer for additional comments.

6. Lighting

- a. The applicant is requesting a waiver to comply with Section 540-623.A.1 of the ordinance, that the minimum lighting level at any location within a parking area shall be 75% of the average level. Testimony shall be provided.

7. Utilities

- a. The applicant shall address in testimony the sewer capacity issues identified in the Sewer Capacity Analysis prepared by Maser Consulting, P.A. dated February 18, 2014. The Analysis is based on 530 residential homes and 613,000 square feet of commercial, office and restaurant space, and concludes that the majority of the sewer main sections have adequate available surplus capacity to convey the required flow from the proposed development under average daily flow conditions. However, under maximum average daily conditions, select sewer main sections approach or exceed capacity based upon calculated capacities, existing flows and proposed development flows. Under peak conditions, the majority of sewer mains exceed capacity. TOMSA review and approval is required.

8. Easements

- a. In accordance with Section 540-614 of the ordinance, Conservation Easements for wetlands, wetland transition areas, steep slopes, basins shall be designated.
- b. Easement documents for the following easements must be provided for review:
 - i. An area of 30,552 square feet is dedicated as a public access easement to replace the existing Woodland Drive jug handle.
 - ii. An area of 2,693 square feet is dedicated as an access easement from the applicant's lot to the existing Woodland Drive ROW. This will be used to access Block 870, Lot 1.
 - iii. An area of 126,389 square feet is dedicated as a public access easement for the inter-connect road on existing Block 825, Lot 53.01.
 - iv. An area of 800 square feet is dedicated as a public access easement for sidewalk adjacent to the intersection of the inter-connect road and Kings Highway East on existing Block 825, Lot 53.01 (Residential Tract).
 - v. An area of 235 square feet is dedicated as a public access easement for sidewalk adjacent to the intersection of the inter-connect road and Kings Highway East on existing Block 825, Lot 55.01 (Commercial Tract).
 - vi. An area of 900 square feet is dedicated as a public access easement for sidewalk adjacent to the intersection of the inter-connect road and Kaness Lane on existing Block 825, Lot 55.01 (Commercial Tract).

9. Miscellaneous

- a. Testimony should be provided regarding the hours of operation of the proposed development.
- b. Testimony should be provided regarding the hours of deliveries and typical days of the week scheduled for the same.
- c. Testimony should be provided regarding hours for refuse collection and typical days of the week scheduled for the same.
- d. Street naming: The applicant shall coordinate with the Township for re-naming of the existing Kings Highway and realigned Kings Highway, and inter-connect road.
- e. As per 540-638.J.4, the applicant shall provide estimates of the amount of recyclable materials that will be generated each week.
- f. All the proposed block and lot numbers must be approved by the Tax Assessor.
- g. As mentioned earlier in this review letter, the applicant obtained a minor subdivision to subdivide Block 825, Lots 53-57, 59-68, 69.01, 72-79 & 81 into two (2) parcels, known as Block 825, Lots 53.01 and 55.01. Block 825, Lot 53.01 would contain the residential portion while Block 825, Lot 55.01 would contain the commercial portion. This commercial portion is further being subdivided into four parcels. At the time of writing this review, the subdivision is being perfected. As soon as that is completed, the plans shall be revised to reflect the lot numbers approved by the tax assessor.
- h. Township Health Department review and approval is required for the proposed abandonment of the existing septic systems on-site.

- i. Environmental Disturbance Fund – A contribution to the Township’s Environmental Disturbance Fund will be required prior to issuance of any construction permit.
- j. Affordable housing non-residential fee shall be required prior to the issuance of any Certificates of Occupancy.
- k. Outside Agencies:
Final approval or letter of no jurisdiction will be required from the following:
 - NJDOT
 - NJDEP
 - NJSHPO
 - Freehold Soil Conservation District
 - Monmouth County Planning Board
 - Township of Middletown
 - Township of Middletown Sewerage Authority (TOMSA)
 - Township of Middletown Police
 - Township of Middletown Fire Advisory Review Board
 - Township of Middletown Environmental Commission
 - Township of Middletown Health Department

DOCUMENTS REVIEWED

- Correspondence in response to the first completeness review, including detailed waiver requests, from Marc D. Policastro of Giordano, Halleran & Ciesla, dated February 19, 2019;
- Written Certification contacting utilities dated December 27, 2018;
- Preliminary and Final Major Subdivision for The Shoppes at Middletown, prepared by Langan, dated December 20, 2018;
- Application for Development Permit dated December 20, 2018;
- Ownership Disclosure Form;
- Proof of tax payment;
- Lot Owner’s Consents;
- Certificate of Title;
- Project Narrative;
- Zoning Officer’s Denial of Development Permit dated January 23, 2019;
- Preliminary and Final Major Subdivision Plan, prepared by Langan Engineering, consisting of four (4) pages, dated December 14, 2018;
- Preliminary and Final Major Site Plan Plan, prepared by Langan Engineering, consisting of sixty-two (62) pages, dated December 14, 2018;
- Architectural Plan Package;
- Building Elevation Package;
- Building Signage Package;
- Site Signage Package;
- Environmental Impact Statement, prepared by Donald DiMarzio, M.S., P.P., dated January 2019;
- Stormwater Management Report, Volumes I and II, prepared by Langan Engineering and Environmental Services, dated February 11, 2016, last revised October 30, 2018;

- Operation and Maintenance Manual for Stormwater Management Facilities, prepared by Langan Engineering and Environmental Services, dated October 30, 2018;
- Traffic Impact Study, prepared by Langan Engineering, dated September 22, 2015, last revised February 10, 2016; and
- Plans for NJ Route 35 Widening, prepared by Langan Engineering, consisting of 89 sheets, dated January 8, 2018.

We reserve the right to make additional comments based upon the submission of additional documents or testimony presented to the Board.

Report Prepared by:



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